

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No.
)	18-10095-FDS
ANGEL GARCIA CASTILLO,)	
)	
Defendant.)	
)	

**MEMORANDUM AND ORDER ON DEFENDANT’S MOTION FOR REVIEW
BY DISTRICT COURT JUDGE OF DETENTION ORDER**

SAYLOR, J.

Defendant Angel Garcia Castillo has moved, pursuant to 18 U.S.C. § 3145(b), for a revocation of the detention order of the Magistrate Judge dated April 26, 2018, and seeks release pending trial on various conditions.

After a two-day hearing on the government’s request to detain the defendant pending trial, the Magistrate Judge issued an order finding two independent and sufficient grounds for detention: first, that the government established by clear and convincing evidence that no condition or combination of conditions of release will reasonable assure the safety of the community; and second, the government established by a preponderance of the evidence that no condition or combination of conditions of release will reasonably assure the defendant’s appearance.

The Court has reviewed the order of the Magistrate Judge and sees no reason to disagree with her findings and conclusions. However, since the Magistrate Judge issued her order, two further events have transpired. First, a government witness, identified as CW, was recently

arrested on state-law drug charges. Defendant contends that the arrest will effectively prevent the CW from testifying, or significantly impair his credibility if he does. According to defendant, the CW is the critical identification witness in the case, and the government's ability to prove his guilt is now substantially compromised. Second, defendant's wife and children have been approved for permanent residency in the United States. Defendant contends that the risk that he will flee is considerably diminished because his wife and children are able to stay in the country permanently.

As to the risk of flight, the Court agrees as a general matter that the calculus may have changed now that his family can stay here legally, and will not be required to return to the Dominican Republic. But risk of flight was not the only basis for the detention order. The Magistrate Judge also found by clear and convincing evidence that defendant was a danger to the community. And while it is possible that the CW's arrest may impair the government's case, it is only a speculative possibility at this juncture. The CW has not been convicted (and therefore does not yet have a conviction, at least as to that matter, with which he can be impeached under Fed. R. Evid. 609), and it is by no means clear that he would refuse to cooperate or assert his Fifth Amendment privilege if called to testify in this case. The weight of the evidence against the defendant has therefore not materially changed due to the arrest of the CW, and the Magistrate Judge's conclusion as to danger to the community remains valid.

In summary, after a hearing, and after review of the Magistrate Judge's order and the additional evidence proffered by defendant, defendant's motion for revocation of the detention order is DENIED. The denial is, of course, without prejudice, pending further evidentiary or other developments in the case.

So Ordered.

Dated: July 27, 2018

/s/ F. Dennis Saylor IV
F. Dennis Saylor IV
United States District Judge